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THE SITUATION OF DEMOCRACY AND HUMAN RIGHTS IN HAITI

Report of the Secretary-General

1. The present report is being submitted to the General Assembly pursuant to paragraph 10 of resolution 48/27 B of 8 July 1994, in which the Assembly requested the Secretary-General to submit to it regular reports on the work of the International Civilian Mission to Haiti (MICIVIH), and paragraph 10 of resolution 49/27 of 5 December 1994, requesting information on the implementation of that resolution.

2. The activities of the Organization of American States (OAS)/MICIVIH resumed in Haiti on 26 October 1994 with the reopening of an office in Port-au-Prince. Offices were subsequently opened in Gonaïves (28 November), Les Cayes (25 January 1995), Cap Haïtien (6 February), Jacmel (7 March), Hinche (15 March), Jérémie (15 March), Fort-Liberté (17 April), Port-de-Paix (18 April) and Saint-Marc (10 May). In addition to its headquarters, the Mission has since 15 March had two teams operating from Port-au-Prince; one covering the metropolitan area and the second covering the rest of the Department of the West.

3. The number of observers has gradually increased from 13 (the core group that had remained in Santo Domingo) towards the intended total of 240 agreed between the United Nations and OAS. By the middle of June, MICIVIH had a strength of 190 observers (including other substantive staff) and 9 administrative staff (2 OAS, 7 United Nations). Of the observers, 104 were men and 86 women; 84 were contracted by OAS and 106 by the United Nations, 26 of the latter being United Nations Volunteers. Fifty nationalities were represented.

4. MICIVIH has continued to give priority to the monitoring of and the promotion of respect for human rights in Haiti. During its two previous periods of operation in Haiti, February to October 1993 and January to July 1994, there were widespread human rights violations. These included extrajudicial executions, enforced disappearances, arbitrary arrests, torture, politically

motivated rapes and other forms of cruel, inhuman or degrading treatments. They were perpetrated mainly by the Haitian Armed Forces (FADH), chefs de section (local security chiefs), their attachés (armed civilians) and, as of mid-1993, the Front révolutionnaire pour l'avancement et le progrès d'Haïti (FRAPH), a paramilitary group closely linked to the FADH. The rights to freedom of expression and freedom of association were systematically denied to the majority of the population. Human rights violations were committed with complete impunity, as the Haitian justice system failed to investigate them and sanction the perpetrators.

5. Since the deployment of the multinational force and the restoration of President Jean-Bertrand Aristide and the constitutional Government, the number of human rights violations has fallen substantially. The rights to freedom of expression, association and assembly are being exercised by different sectors of society, including by those who are critical of President Aristide and the Government. Internally displaced persons have started to return to their homes and departures by boat people have been significantly reduced.

6. The main impediment to full respect for human rights is now the absence or extreme weakness of the institutions that are necessary to protect the rights of citizens, most notably a well-trained civilian police force and an effective judicial system. The Government is strongly committed to developing those institutions, with the assistance of the international community, including MICIVIH. This can be achieved only over time: while the United Nations Mission in Haiti (UNMIH) is maintaining an environment that is secure and stable, the international presence cannot provide citizens with the full protection for which a Haitian law and order system must assume responsibility as soon as possible.

7. In the meantime, Haitians are currently concerned at the inadequacies of the Interim Public Security Force, the weakness of the judicial system and repeated jail-breaks throughout the country. The incidence of criminal violence, while not high when compared with many other countries, is perceived by many Haitians as being on the increase. Most of the murders and assaults appear to result from robbery or the settling of private scores or to have been acts of "popular justice" in which persons allegedly caught in the act of crime have been attacked and often put to death by angry crowds. Concern at the level of common crime has led to the establishment of local brigades de vigilance. While the Government has stated that they should cooperate with the security forces and respect the rights of citizens, members of the brigades have, in some cases, been involved in killings or assaults on alleged criminals. The Mission is concerned that they should be effectively controlled to ensure that they act only within the law.

Politically motivated violence

8. To the extent that current violence in Haiti is purely criminal in motivation, it falls outside the Mission's human rights mandate. The Mission has however continued to investigate killings and other acts of violence if there is a possibility that they have a political context. There is widespread concern among Haitians that those responsible for the human rights violations of the past may again engage in abuses; and there have been a number of localities,

particularly in the Department of the Artibonite, where intimidation of political opponents has taken place. Conversely, those who are identified with the FADH, the FRAPH and the de facto régimes fear that they may be the targets of vengeance and are ready to accuse the Government, through its supporters, of complicity in such attacks.

9. Two political figures were murdered in March 1995. Mr. Eric Lamothe, a former member of the Chamber of Deputies intending to run in the elections for the Department of the North-East, was found murdered in Port-au-Prince on 3 March; and Mrs. Mireille Durocher Bertin, a prominent lawyer, former chief of staff to de facto President Emile Jonassaint and founder of a new opposition political party, was assassinated in Port-au-Prince on 28 March together with a client, Mr. Eugène Baillergeau. The latter killings came after the multinational force had carried out arrests and informed the Government of an alleged plot to kill Mrs. Durocher Bertin. The Government requested the assistance of the United States Federal Bureau of Investigation and, as of early June, one person is under arrest in connection with the killings of Mrs. Durocher Bertin and Mr. Baillergeau. No motive has been established in either case.

10. In a small number of cases those murdered have been local officials or members of popular organizations, who may have been targeted because of their identification with the Lavalas movement. Although arrests have been made in some of these cases, neither the identity of the killers nor their motives have been established, nor is there evidence suggesting that a covert network is involved.

11. The flurry of acts of vengeance and retribution that erupted immediately before and after the return of President Aristide on 15 October 1994 was short-lived. The President repeatedly called for reconciliation and his appeals were heeded by the population. There have, however, been several killings in which the victims were former members of the FADH, attachés or their accomplices. In none of the cases have those responsible been identified or arrested. In some of them, there is reason to believe that the acts were purely criminal in nature. In a few cases, the circumstances suggest that the motive may have been local vengeance.

12. MICIVIH therefore continues, in close liaison with the civilian police component of UNMIH, to investigate acts of violence that may have a political motivation or context and to be alert to the possible emergence of a pattern of activities that would pose a threat to human rights in Haiti.

Arbitrary arrests and ill-treatment of detainees

13. In 1993 and 1994, the Mission intervened in a large number of cases of arbitrary arrest, which was often in violation of the right to freedom of expression on the basis of actual or presumed political opinion. Since the restoration of constitutional order, there have been very few instances of action by the authorities against persons exercising their right to freedom of expression and when such action has been initiated locally, it has not been sustained. Legal procedures, notably the constitutional requirement that anyone arrested be brought before a judge within 24 hours, are much better respected

than before. Nevertheless, the Mission has investigated arrests where legal procedures appeared not to have been followed or where warrants were alleged to have been issued on spurious grounds, including political pressures of different kinds.

14. On 21 February, the Government announced that it had received intelligence reports of a plot to disrupt the carnival. At the request of the Minister of the Interior, a collective arrest warrant was issued against a group of 12 persons, including former FADH officers, who were accused of plotting against state security. Two of the 12 were detained. As of the middle of June, they remain in pre-trial detention. The Mission wrote to the Government expressing a number of concerns about the legality of those proceedings. It has not yet received a reply.

15. Torture and ill-treatment of people in custody, which was widespread in both political and criminal cases under the FADH, has almost entirely ceased and the Mission has received only a small number of complaints on this score against the Interim Public Security Force.

Elections

16. Technical assistance for the organization of the elections has been provided to the Provisional Electoral Council by the Electoral Assistance Division at Headquarters, with support from UNMIH. OAS, in response to a request by the Government that it observe the elections, has established the OAS Electoral Observation Mission. The United Nations and OAS have agreed that the responsibilities of MICIVIH will be to monitor the human rights aspects of the elections, in particular freedom of expression and assembly; to monitor and investigate threats or incidents of intimidation, aggression and violence; to promote peace and build confidence through regular contacts with political parties and candidates and through problem resolution. The responsibilities of the OAS Electoral Observation Mission will be to observe and monitor the electoral process and election campaign, including the security aspects; to monitor the impartiality of electoral authorities and transparency in the organization and conduct of the electoral process; to plan, organize, train and coordinate the deployment of international election observers; to observe the vote count, tabulation and announcement of the results, and to implement a verification mechanism. Seventeen MICIVIH observers under OAS contracts have been seconded to the OAS Mission, and most of the remaining MICIVIH observers, on both OAS and United Nations contracts, will be seconded to the Electoral Observation Mission for the observation of the organization of the poll, the voting and counting. UNMIH will provide security and logistical support during the final phases, especially during the voting.

17. The first round of the elections is scheduled to take place on 25 June and the second round on 23 July. The campaign proper commenced with the publication by the Provisional Electoral Council of official lists of approved candidates in the period from 17 to 24 May. Prior to that, the Mission had closely monitored the progress of electoral activities, especially the registration of voters and candidates.

18. The staffing of electoral offices at the levels of departments, communes and localities was the subject of dispute in a number of areas and gave rise to acts of intimidation that led to the replacement of some officials and delayed the opening of some offices or caused others to be closed down temporarily. On a number of occasions, Mission observers were able to facilitate talks between contending factions to ease tension that might otherwise have erupted into violence.

19. The process of registration of voters and candidates was also marred by threats, acts of intimidation, stone-throwing and theft and attempted theft of registration material. The Mission, together with UNMIH's civilian police component, investigated a number of serious incidents, which were concentrated largely in certain areas in the Departments of the North, the Artibonite and the West. The electoral process later stabilized and, despite fears of a security vacuum and the rise in common crime, a large number of candidates registered, as did a high proportion of eligible voters.

20. The rejection on various grounds by the Provisional Electoral Council of a substantial number of candidates, as well as some political parties and groupings, gave rise to protests by their supporters, some of which went beyond the bounds of freedom of peaceful expression and assembly.

21. The election campaign began in a climate made heavy by protests, confusion over which candidates had been accepted and threats of violence. In the event there have been sporadic acts of violence, some of them serious, but the early stages of the campaign have been generally satisfactory. Efforts are being made by the local media and an international non-governmental organization to encourage political debate. Some rejected candidates have called on their supporters to register and to vote on election day.

22. The Mission has sought contact, at national and local level, with all political parties and candidates and has appealed to them and the appropriate authorities to do all in their power to ensure that the elections take place in a peaceful atmosphere unmarred by violence. It has called upon the parties to inform it of any acts of intimidation or aggression, so that it can investigate and urge the authorities to take appropriate action.

Institution-building

23. In this new phase, MICIVIH, in dialogue with the Government of Haiti and in coordination with UNMIH, the United Nations Development Programme (UNDP) and the Centre for Human Rights and Crime Prevention and Criminal Justice Branch of the Secretariat, is contributing to the strengthening of institutions essential to the protection of human rights.

24. The Mission has a unique experience of the Haitian judicial system at the local level, on which it has submitted to the Government recommendations based on the experience acquired by its teams throughout Haiti. The Mission is well-placed to provide feedback on progress at the local level as reform and training proceed and it participates in consultations on the Government's programme to reform the justice system, in particular through training provided

by the Crime Prevention and Criminal Justice Branch through the French École nationale de la magistrature.

25. During 1993 and again since its return, the Mission has undertaken regular visits to prisons and places of detention. Despite short-term improvements, conditions of detention in Haiti remain of acute concern. The Mission has worked with the Crime Prevention and Criminal Justice Branch and UNDP to develop and commence implementation of a penal reform project (funded by UNDP and the United States Agency for International Development). The project comprises the implementation of a system of registration of prisoners, a penal administration system, training for prison wardens and the renovation of certain detention centres. Initial training for two groups of 180 prison warders commenced on 29 May 1995.

26. As more active policing has led to an increasing number of arrests, the capacity of Haitian prisons is becoming severely strained. This is compounded by the inability of the judicial system to deal promptly with those arrested according to due process of law. The Mission investigates the judicial status of those detained and liaises with local judicial officials to promote more rapid processing of cases, including provisional or final release where appropriate.

27. There is a keen awareness in Haiti of the contribution that human rights education can make to the building of a democratic society. The Mission has worked closely with non-governmental organizations in Port-au-Prince and in the provinces. Wherever possible, it responds to requests to participate in human rights activities and makes available human rights promotional material it has developed.

28. The severe human rights violations that have been perpetrated in Haiti in the recent past must be addressed if secure foundations are to be set for a state of law in the future. On 17 December 1994, President Aristide issued a decree setting up a National Commission of Truth and Justice, with a mandate to establish the truth with regard to the serious human rights violations committed between 29 September 1991 and 15 October 1994 within and outside the country. The work of the Commission was officially inaugurated by President Aristide on 30 March 1995 in my presence. The Commissioners (four Haitian and three international) have held two working sessions, in early April and mid-May, under the chairmanship of the Commission's president, who is Haitian.

29. The Mission has given technical assistance to the National Commission of Truth and Justice in such areas as its operational aspects, working methods, work programme and budget. With the assistance of UNDP, the Mission facilitated consultancy visits by former officials of the Commission on the Truth in El Salvador. The Mission has also helped to identify and approach other international experts and qualified personnel whom the Commission may wish to recruit.

30. The Mission is at present in contact with the Commission to finalize modalities for the transmission to it of information on human rights violations documented by the Mission. The Mission also stands ready to give whatever

technical assistance it can to the Commission when it begins its forthcoming information-collecting phase.

31. In 1993 and 1994, the Mission provided medical assistance to victims of human rights violations. Although there have been very few injuries resulting from newly occurring human rights violations, victims of past violations continue to approach the Mission for assistance they are not able to obtain elsewhere. The Mission has entered into an arrangement with the French non-governmental organization Médecins du Monde, which enables victims to receive treatment. The Mission's medical unit is also involved in a network to promote psychiatric treatment for severely traumatized victims of torture in Haiti.

Relations between the International Civilian Mission to Haiti and the United Nations Mission in Haiti

32. My Special Representative, Mr. Lakhdar Brahimi, is responsible for coordinating the work of UNMIH and MICIVIH. The Executive Director of MICIVIH, Mr. Colin Granderson, reports to me through my Special Representative and directly to the Secretary-General of OAS. MICIVIH's knowledge of local issues, field experience and linguistic skills proved to be of considerable use to UNMIH in the early months of its operations. Mechanisms have been put in place at all levels of both Missions to facilitate coordination and the exchange of information. MICIVIH works closely, in particular, with the civilian police component of UNMIH on matters pertaining to the detention and treatment of prisoners, as well as other human rights matters. The United Nations administrative component provides support to MICIVIH.

Observations

33. I had the opportunity to acquaint myself at first hand with the work of MICIVIH during my brief visit to Haiti on 30 and 31 March 1995. The Mission can claim credit for having made a major contribution to the improvement of respect for human rights in Haiti, both during the period of military rule, when it often had to operate in difficult and dangerous conditions, and since the restoration of the constitutional order last October. After consulting the Secretary-General of OAS, I have no hesitation in recommending that its mandate be extended and that it maintain its present tasks, including those related to the current electoral process.

34. In agreement with the Secretary-General of OAS, I had intended to recommend that the mandate be extended by a full year, that is until 8 July 1996. However, the Government of Haiti has asked that at the present stage the extension should be only until 7 February 1996, which is the date when President Aristide's mandate expires. I have indicated to the Government that it would be important that any request for a further extension of the mandate beyond that date should be received before the General Assembly at its fiftieth session considers the item entitled "The situation of democracy and human rights in Haiti". Meanwhile, I recommend that, before the present mandate expires on 8 July 1995, the General Assembly decide to extend it until 7 February 1996.

ANNEX

[Original: French]

Letter dated 23 June 1995 from the President of the Republic of Haiti addressed to the Secretary-General

Since the restoration of constitutional government in Haiti on 15 October 1994, the situation of human rights has improved considerably in my country. Thanks to the cooperation and technical assistance of the International Civilian Mission to Haiti (MICIVIH), the Government is in the process of implementing a comprehensive reform of the judicial system and a mass education campaign designed to promote respect for the fundamental rights of all citizens.

Unfortunately, the magnitude of the task is such that the efforts currently under way will have to be maintained and reinforced if respect for the rights of the individual in Haiti is to become firmly entrenched.

Accordingly, pursuant to my letter of 8 January 1993, I should like to request that the mandate of MICIVIH be extended to 7 February 1996, in accordance with the terms of General Assembly resolution 49/27 of 5 December 1994.

I remain convinced that the establishment of the rule of law in Haiti is an absolute necessity for the full exercise of democracy.

(Signed) Jean-Bertrand ARISTIDE